

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

RONALD WEAVER,

Civil No. 99-1150-ST

Petitioner,

v.

JOAN PALMATEER,

FINDINGS AND RECOMMENDATION

Respondent.

Todd H. Grover
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Bend, Oregon 97702

Attorney for Petitioner

Hardy Myers
Attorney General
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Attorneys for Respondent

STEWART, Magistrate Judge.

This terminated 28 U.S.C. § 2254 habeas corpus action comes before the court on petitioner's Motion for Relief from the Superceding Judgment (docket #154) dismissing this case with prejudice. This action pertains to petitioner's state court convictions in Multnomah County for Rape in the First Degree, Attempted Rape in the First Degree, and Attempted Sodomy in the First Degree.

In a separate action, *Weaver v. Palmateer*, CV 99-1045-ST, petitioner moves for relief from the Superceding Judgment on the same grounds raised in this case. This court recommends granting that motion in case number CV 99-10545-ST. Because this case and case number CV 99-1045-ST involve the same issues with respect to relief from the Superceding Judgments, the Motion for Relief from the Superceding Judgment (docket #154) in this case should be granted for the reasons identified in the court's Findings and Recommendation (docket #170) in CV 99-1045-ST.

RECOMMENDATION

Petitioner's Motion for Relief from the Superceding Judgment (docket #152) should be GRANTED. The Clerk of Court should be DIRECTED to REOPEN this case, and this court should address Grounds Two and Three of the Amended Petition (docket #44).

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SCHEDULING ORDER

Objections to these Findings and Recommendation, if any, are due July 18, 2008. If no objections are filed, then the Findings and Recommendation will be referred to a district judge and go under advisement on that date.

If objections are filed, then the response is due within 10 days after being served with a copy of the objections. When the response is due or filed, whichever date is earlier, the Findings and Recommendation will be referred to a district judge and go under advisement.

DATED this 2nd day of June, 2008.

/s/ Janice M. Stewart
Janice M. Stewart
United States Magistrate Judge